

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DEMARIA L. WYNN
as Guardian for Duane L. Wallace, a protected individual,
and
DUANE L. WALLACE, a protected individual,

Plaintiffs,

-vs-

Case No. 06-10534
HON. AVERN COHN

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY,

Defendant.

_____ /

**ORDER DENYING PLAINTIFF'S MOTION IN LIMINE
TO EXCLUDE TESTIMONY . . . OR REFERENCE TO
PLAINTIFF'S BLOOD ALCOHOL LEVEL [ETC.] (DOC. 89)¹**

This is an attendant care case under Michigan's No Fault Act. Plaintiff has filed a motion styled Motion in Limine to Exclude Testimony, Argument, Introduction of Evidence, Mention of, or Reference to, Plaintiff's Blood Alcohol Level and Consumption of Alcohol (doc. 89). The motion is DENIED.

¹ In this circuit, a ruling on a motion in limine is advisory only. United States v. Yannott, 42 F.3d 999, 1007 (6th Cir. 1994). To preserve for appeal any issue relating to this decision, a party must raise the question at trial and obtain a final decision from the Court. See United States v. Luce, 713 F.2d 1236, 1239-40 (6th Cir. 1983).

Plaintiff does not dispute the probative value of the Glasgow Coma Score (GCS). Defendant plans to offer the testimony of a neuropsychologist, Linus Bielauskas, Ph.D., on the effects of alcohol on the GCS. Plaintiff challenges Dr. Bielauskas's credentials to testify. Defendant bears the burden of establishing the right of the witness to express an opinion at trial.

SO ORDERED.

s/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: April 9, 2009

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record on this date, April 9, 2009, by electronic and/or ordinary mail.

s/Julie Owens
Case Manager, (313) 234-5160